

Department of the Interior

§ 1452.237-71

price contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option):

LIABILITY FOR LOSS OR DAMAGE— DEPARTMENT OF THE INTERIOR (APR 1984)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for: (1) Normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the Contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserve fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage

nor otherwise compromise or adversely affect the Government's subrogation or other rights hereunder. The Contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(End of clause)

[49 FR 14267, Apr. 10, 1984, as amended at 60 FR 53280, Oct. 13, 1995]

§ 1452.237-71 Utilization of Woody Biomass.

As prescribed in §1437.7202, insert the following clause:

UTILIZATION OF WOODY BIOMASS

1. The contractor may remove and utilize woody biomass, if:

(a) Project work is progressing as scheduled; and

(b) Removal is completed before contract expiration.

2. To execute this option, the contractor must submit a written request to the Government.

3. Following receipt of the written request, and if appropriate, the Government and the contractor will negotiate and execute a separate timber/vegetative sales contract. Payment under the timber/vegetative sales contract must be at a price equal to or greater than the appraised value of the woody biomass. The contractor must make any appropriate payment specified in the related timber/vegetative sales contract before removal may be authorized.

4. If required by law, regulation or Bureau policy, the Government will prepare a timber/vegetative sales notice and/or prospectus, including volume estimates, appraised value and any appropriate special provisions.

5. The contractor must treat any woody biomass not removed in accordance with the specifications in the service contract.

6. The sales contract and service contract are severable; default or termination under either contract does not remove the contractor from payment or performance obligations under the other contract.

7. Definitions:

Timber/vegetative sales contract and/or notice means the agency-specific authorized contract instrument for the sale, barter, exchange, billing or other compensation for the payment, removal, and/or transportation of woody biomass material.

Woody biomass means the trees and woody plants, including limbs, tops, needles, leaves,

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and other woody parts, grown in a forest, woodland, or rangeland environment, that are the by-products of management, restora-

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tion and/or hazardous fuel reduction treatment.

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PARTS 1453–1499 [RESERVED]